

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 5/1/03.

## **I. DISPUTE**

Whether the carrier should be reimbursed for 90844 x 2, 99213, 99214 from 5/6/02 through 6/21/02.

## **II. RATIONALE**

On 6/26/02, the requestor filed a TWCC-21 denying the claim in its entirety. The TWCC-21 stated, "This dispute is being filed in accordance with Rule 124.3 (a)(3)(A)-B), newly discovered evidence, no injury in course and scope of employment... condition is preexisting and an ordinary disease of life... newly discovered medical evidence received."

Rule 124.3 (a)(3)(A-B) states, "(3) If the carrier wants to deny compensability of or liability for the injury after the 60th day after it received written notice of the injury

(A) the carrier must establish that the evidence that it is basing its denial on could not have reasonably been discovered earlier.

(B) the carrier is liable for and shall pay all benefits that were payable prior to and after filing the notice of denial until the Commission has made a finding that the evidence could not have reasonably been discovered earlier.

A Contested Case Hearing was held and in the Decision of 10/7/02 it is stated, "The carrier's contest filed herein on June 26, 2002 is based on newly discovered evidence that could not reasonably have been discovered at an earlier date..."

The requestor filed the dispute with the Commission on 5/1/03. Per Rule 124.3 (c) The notice of dispute shall be filed in accordance with §124.2 of this title and be filed not later than the earlier of:

(1) the date the carrier denied the medical bill; or

(2) the due date for the carrier to pay or deny the medical bill as provided in Chapter 133 of this title.

Rule 133.304(a) requires an insurance carrier to take final action on a medical bill not later than the 45<sup>th</sup> day after the date the insurance carrier received a complete medical bill, or in this case,

final adjudication from the Commission regarding compensability. The requestor failed to file the dispute within the 45 day limit. On this basis, reimbursement is not recommended.

### **III. DECISION**

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is not** entitled to reimbursement for 90844 x 2, 99213, 99214.

The above Findings and Decision are hereby issued this 7<sup>th</sup> day of April 2004.

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